

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIALTO UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015041152

ORDER GRANTING MOTION TO
DISMISS ISSUE 7 AND CLAIMS
OUTSIDE OF OAH JURISDICTION

On May 8, 2015, Rialto Unified School District filed a motion to partially dismiss claims from Student's complaint that arise out of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) (Section 504), the Americans with Disabilities Act, the civil rights act under 42 U.S.C. 1983 (Section 1983), the due process clause of the 14th Amendment of the United States Constitution, and other related state and federal civil rights laws. Student did not oppose the motion. For the reasons discussed below, the motion is granted.

OAH does not have jurisdiction to entertain claims based on Section 504, Section 1983, the American with Disabilities Act, or other related state and federal civil rights laws. The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving a proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Student's complaint, and specifically Issue 7, alleges claims that arise under the above-referenced authorities, and does not allege any claims arising under the IDEA. Accordingly, District's motion is granted. Issue 7, and all claims alleging violations of Section 504, the American with Disabilities Act, Section 1983, or any other state or federal civil rights claims are dismissed.

All dates previously set in this matter are confirmed.

IT IS SO ORDERED.

DATE: May 20, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings